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OFFICE OF  
PESTICIDES & TOXIC SUBSTANCES  
BRANCH - EPA REGION 10

## MEMORANDUM

SUBJECT: Definition of "In Service" PCBs in a Treatability Study

FROM: *[Signature]*  
Tony Baney, Chief  
Chemical Regulation Branch (TS-798)

TO: Gil Haselburger, Chief  
Toxic Substances Branch  
Region X

I am responding to your memorandum entitled "Definition of 'In Service' PCBs in a treatability study" dated May 30, 1991. This memorandum asks the regulatory status with respect to storage or disposal of PCB soil which was spiked on August 2, 1990, with 1,000 gallons of liquid PCBs. The soil was spiked in order to be used in a PCB disposal demonstration for a nationwide commercial operating PCB Disposal Approval. The disposal company had a PCB Disposal Demonstration Approval from October 15, 1990 through December 1, 1990, but has never demonstrated the process. The soil, now at approximately 10,000 parts per million (ppm) PCBs, is being stored in a trench lined with one foot of cobble and one foot of clean soil. The PCB-contaminated soil in the trench is capped with one foot of clean soil. In your memorandum, you ask two questions:

1. Are these PCBs regulated under 40 CFR 761.65(a), i.e., must the PCBs be removed from storage and disposed of as required by 40 CFR 761 Subpart D within one year from the date they were first placed into storage?
2. Or are they still considered "in service" since their use is for the specific treatability study?

First, a PCB disposal demonstration is not considered a treatability study. A treatability study is a small-scale disposal activity defined by Resource Conservation Recovery Act and granted a special disposal status under the RCRA regulations. A PCB disposal demonstration is not afforded any special regulatory status under the Toxic Substances Control Act regulations similar to the special regulatory status under RCRA for treatability studies.

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For the situation you have described, the PCB material in the trench is regulated for disposal according to the disposal date required for the spiking material. This may make the clock for the "maximum one-year storage before disposal" start before August 2, 1990. In addition, it is clear that the permit from October 15, 1990 through December 1, 1990, did not approve of storage of material beyond that period; and therefore, longer term storage would have to be in compliance with 40 CFR 761.65(b).

However, it may be appropriate to EPA to issue a complaint to the generator and disposal company on the storage facility violation, and in a settlement allow the continued storage of the material for a reasonable amount of time to allow for disposal of the material through a PCB disposal demonstration using the proposed technology. Considering the extensive (and probably inordinate) amount of time that the currently proposed company has expended in setting up the demonstration, it may also be reasonable and prudent to set a final date beyond which the PCB soil will have to be disposed of at a facility approved to dispose of PCB liquids greater than 10,000 ppm PCBs and soils greater than 10,000 ppm PCBs.